

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MAXWELL SHOE COMPANY, INC.,

Plaintiff,

v.

EDELMAN SHOE COMPANY, LLC and  
SAM EDELMAN,

Defendants.

Civil Action No. 04-10694 RCL

**MOTION FOR LEAVE TO FILE SUPPLEMENTAL MEMORANDUM IN  
OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

Defendants Edelman Shoe Company, LLC and Sam Edelman hereby request leave to file the accompanying Supplemental Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction.

Defendants submit that the Supplemental Memorandum is needed to submit new evidence in the form of a recent Office Action from the United States Patent and Trademark Office (PTO) indicating that a search of the PTO records in connection with Edelman Shoe Company, LLC's trademark application for the mark SAM BY SAM EDELMAN found no similar registered or pending marks that would bar federal registration of SAM BY SAM EDELMAN, including Plaintiff's SAM & LIBBY registered trademark.

**Certification of Compliance with Local Rule 7.1**

Counsel for Defendants Edelman Shoe Company, LLC and Sam Edelman, Christopher Centurelli, conferred by telephone with counsel for Plaintiff Maxwell Shoe Company, Inc., Ilan N. Barzilay, on July 28, 2004, in an attempt to resolve or narrow the issues addressed in this Motion. Plaintiff's counsel indicated that Plaintiff could not determine whether or not Plaintiff would oppose the Motion prior to reviewing the accompanying submission.

WHEREFORE, Defendants respectfully request entry of this Motion.

EDELMAN SHOE COMPANY, LLC and  
SAM EDELMAN,

By their attorneys,

Dated: July 28, 2004



Jeffrey L. Snow, BBO# 566388  
Christopher Centurelli, BBO# 640974  
KIRKPATRICK & LOCKHART LLP  
75 State Street  
Boston, MA 02109-1808  
(617) 261-3100

Darren W. Saunders  
Mark I. Peroff  
KIRKPATRICK & LOCKHART LLP  
599 Lexington Avenue  
New York, NY 10022  
(212) 536-3900

**Certificate of Service**

I hereby certify that a true copy of the above document was served upon the attorney of record for Plaintiff by hand on July 28, 2004.

